REMARKS

New claim 17 is added and claims 1-16 remain for consideration. The rejections of the claims are traversed in the arguments below.

<u>Gibbons in view of Shepard under 35 USC §103(a)</u>

The Office Action fails to establish a *prima facie* case of obviousness for claims 1-16 under 35 USC §103(a) over US patent number 6,412,019 to Gibbons et al. (hereinafter "Gibbons") in view of the Web pages entitled, "The Visual Programmer," by Shepherd (hereinafter "Shepherd"). The rejection is respectfully traversed because the Office Action fails to show that all the limitations are suggested by Gibbons and Shepherd, fails to provide a proper motivation for combining the references, and fails to show that Gibbons could be modified by Shepherd with a reasonable degree of success.

The Office Action fails to show that that the Gibbons-Shepherd combination suggests all the claim limitations. For example, claim 1 includes limitations that relate to defining a hierarchy of component object model interfaces, defining a first template class associated with the highest level in the hierarchy and a second template class associated with the lowest level of the hierarchy. The second template class inherits from the first template class. The Office Action fails to show that these limitations are shown or suggested by the Gibbons-Shepherd combination.

The cited portions of Gibbons appear to suggest interface inheritance (col. 3, ll. 24-30 and col. 6, ll. 25-35), and the cited portions of Shepherd appear to suggest COM classes, template inheritance, and template parameters that may include an interface (page 1, page 2, and page 9). However, there is no indication that a hierarchy of component object model interfaces have associated template classes. Specifically, the cited section of Shepherd on page 9 illustrates an apartment class with a method that takes IDispatchImpl as a template parameter. There appears to be no suggestion of a template class associated with a component object model interface. Further explanation is respectfully requested if the rejection is maintained. For example, the Office Action should indicate the specific element of Shepherd believed to be a component

object model interface, along with the specific template class that is associated with the component object model interface. No such elements are apparent in the cited art.

The Office Action further fails to show other limitations of claim 1. For example, no specific teaching of Shepherd has been cited as suggesting a component object model interface at a lowest level in the hierarchy and an associated second template class. In addition, the Office Action fails to show the instantiation of the second template class with an interface as a template parameter. For purposes of illustration, pages 11 and 12 of the present specification provide a specific example of a hierarchy of component object model interfaces, associated template classes, and instantiation of a template class with an interface as a template parameter. No similarities appear to be suggested by the cited references. For at least the reasons set forth above, the Office Action fails to show that the cited references suggest the claim limitations.

The Office Action further fails to provide a proper motivation for combining Shepherd with Gibbons. The alleged motivation states that "it would have been obvious ... to implement Gibbons' hierarchy of interfaces with a COM base and a templating ability as found in Shepherd's teaching, thus developing an inheritance interface system, which is parameterized with templates ... because one of ordinary skill in the art would be motivated to provide a system utilizing COM as it is well known (and especially useful in the Microsoft world) and utilizing templates as they produce code which is very extensible while at the same time reducing bloated code." This alleged motivation merely alleges that COM was well known and that templating code makes extensible code, and no evidence from the prior art has been provided that suggests making the proposed combination. The Examiner must identify specifically clear and particular reasons, and provide evidence from the prior art, why one of ordinary skill in the art would have been motivated to select the references and combine (or modify) them (see, e.g., In re Dembiczak, 175 F.3d 994, 50 USPQ2d 1614 (Fed. Cir. 1999). In this instance, the Examiner merely alleges general characteristics of COM and templates, without providing supporting reasons from the cited art. Specifically, the Office Action fails to provide any indication of which specific elements of Gibbons' might be modified with specific elements of Shepherd to make the claimed invention, and no modification appears likely to reasonably succeed. The alleged motivation is conclusory and therefore, improper and should be withdrawn.

Each of claims 2-9 depend either directly or indirectly from claim 1 and further refine the limitations discussed above. Therefore, the Office Action fails to establish a *prima facie* case of obviousness for claims 2-9 for at least the reasons set forth above. In addition, the rejections of various ones of the claims indicate that certain features are "inherent." As explained below, the rejections based on inherency are improper and traversed.

The fact that a certain result or characteristic <u>may</u> occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993). "To establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient." *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted). "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic <u>necessarily</u> flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original) (MPEP 2112). The inherency rejection is improper because no technical reasoning has been provided to support the allegation. Furthermore, the subject limitations are not believed to be <u>necessary</u> in the teachings of either Gibbons or Shepherd. Therefore, the rejections based on inherency should be withdrawn or substantiated with proper evidence.

Claim 10 includes limitations that relate to defining ActiveX Template Library interface maps in the first template class and in the second template class. The Office Action fails to show where Shepherd suggests interface maps, and Gibbons does not appear to suggest interface maps. Even though Shepherd generally discusses the ActiveX Template Library, there is no apparent reference to interface maps in Shepherd. Therefore, the Office Action fails to show that the limitations of claim 10 are suggested by the Gibbons-Shepherd combination.

Claims 11-16 include limitations that, as explained above, the Office Action fails to show are suggested by the Gibbons-Shepherd combination. Therefore, a *prima facie* case of obviousness for claims 11-16 has not been established.

Withdrawal of the rejection and reconsideration of the claims are respectfully requested. If the examiner has any questions or concerns, a telephone call to the undersigned is welcome.

No extension of time is believed to be necessary for consideration of this response. However, if an extension of time is required, please consider this a petition for a sufficient number of months for consideration of this response. If there are any additional fees in connection with this response, please charge Deposit Account No. 50-0996 (USYS.007PA).

Respectfully submitted,

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